

Claims to Non-Elected Species

Regarding the elected claims 14-23, the Office Action states that claims 14-18 and 22-23 are drawn to non-elected species, since the Applicant had previously made an election to the species of Figure 11 (Response filed April 23, 2003). The Office Action stated that claims 14-18 and 22-23 do not read on the embodiment of Figure 11. Applicant respectfully submits that claims 14-18 and 22-23 are directed to the species of Figure 11 and requests that these claims be further considered for examination.

With respect to claims 14-16, the Examiner pointed out that the phrase "at least four continuous diagonal members", appearing in paragraph (d) of claim 14, could mean more than four diagonal members, but that Figure 11 shows only four such members. Applicant respectfully submits that the phrase "at least four continuous diagonal members" does not require that there be more than four members and reads on a panel with four diagonal members. Applicant respectfully submits that since the species of Figure 11 is a panel with four members, claim 11 reads on the elected species. Applicant submits that claims 15 and 16, which depend from claim 14, also read on the species of claim 11.

With respect to claims 17-18, the Examiner stated that claim 17 includes reference to a shear wall having "more than four continuous members". These words appear in paragraph (j) of claim 17, which reads:

"when more than four continuous diagonal member are present, any remaining ends of the continuous diagonal members are..."

Paragraph (d) of claim 17 refers to there being at least four diagonal members. Applicant submits that, reading the claim as a whole, the claimed panel is not limited to a panel having more than four continuous diagonals, but rather, to a panel having four or more diagonals. If there are more than four diagonals, which is not required, the claim recites limitations as to how the remaining ends are to be secured. However, the reference in the claim to "any" remaining ends indicates that such ends may or may not be present. Accordingly, claim 17 reads on the species of Figure 11, which has four

diagonals. Applicant submits that claim 18, which depends from claim 17, also reads on the species of Figure 11.

With respect to claims 22-23, the Examiner stated that claim 22 includes reference to a panel wherein 'vertical members are secured to top or above the shear wall panel', as included in paragraph (j) of claim 22.

Applicant submits that paragraph (j) of claim 22 introduces a limitation that the panel have rods that are secured either (i) to the shear panel near the top of the shear wall panel, or (ii) to a solid structure adjacent and above the top of the shear wall panel. The claim reads on any apparatus having rods secured to either of these locations. The specification states (page 16, lines 1 to 5) that for attachments "above the shear wall panel 510 of Figure 11, more connectors 104 would be attached above the vertically oriented connectors 538 so that more tensile rods 102 can extend upwards to the roof deck or to the vertically oriented connectors of an upper floor shear wall panel 10, 110, 510." Thus in one embodiment, the panel 510 (of Figure 11) has rods that are secured to a solid structure adjacent and above the top of the shear wall panel, which is one of the locations stated in claim 22. Accordingly, Applicant submits that claim 22 reads on the elected species. Claim 23 depends from claim 22, and Applicant submits that claim 23 also reads on the elected species.

For the reasons above, Applicant submits that the application is condition for allowance.

Respectfully submitted,

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